

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

Joe Frank-Haviland  
and Alicia Frank-Haviland,

Plaintiffs

vs.

Case No.

Focus Receivables Management, LLC,

Defendant

**COMPLAINT FOR DAMAGES, DECLARATORY AND  
INJUNCTIVE RELIEF AND DEMAND FOR JURY TRIAL**

**NATURE OF ACTION**

1. This is an action brought under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*

**JURISDICTION AND VENUE**

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. Venue is proper before this Court pursuant to 28 U.S.C. §1391(b), where the acts and transactions giving rise to Plaintiffs’ action occurred in this district, (where Plaintiffs reside in this district), and/or where Defendant transacts business in this district.

**PARTIES**

4. Plaintiffs, Joe Frank-Haviland and Alicia Frank-Haviland (“Plaintiffs”), are natural persons who at all relevant times resided in the State of New Mexico, County of Bernalillo, and City of Albuquerque.

5. Plaintiffs are “consumers” as defined by 15 U.S.C. § 1692a(3).

6. Defendant, Focus Receivables Management, LLC (“Defendant”) is an entity who at all relevant times was engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiffs, as defined by 15 U.S.C. §1692a(5).

7. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

### **FACTUAL ALLEGATIONS**

8. Plaintiffs are natural persons obligated, or allegedly obligated, to pay a debt owed or due, or asserted to be owed or due a creditor other than Defendant.

9. Plaintiffs’ obligation, or alleged obligation, owed or due, or asserted to be owed or due a creditor other than Defendant, arises from a transaction in which the money, property, insurance, or services that are the subject of the transaction were incurred primarily for personal, family, or household purposes. Plaintiffs incurred the obligation, or alleged obligation, owed or due, or asserted to be owed or due a creditor other than Defendant.

10. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due another.

11. In connection with the collection of an alleged debt, Defendant contacted Plaintiffs via telephone call on February 23, 2011 at 10:45 P.M., March 3, 2011 at 1:19 A.M., March 11, 2011 at 11:11 P.M., March 12, 2011 at 12:00

A.M., March 12, 2011 at 12:02 A.M. and March 14, 2011 at 10:18 P.M., times or places which were known or should have been known to be inconvenient for Plaintiffs. (15 U.S.C. § 1692c(a)(1)).

12. In connection with the collection of an alleged debt, Defendant falsely represented that Plaintiffs owed an alleged debt arising from a DirecTv bill. However, Plaintiffs' do not owe said debt, because it was discharged in bankruptcy on September 13, 2010, and as such, Defendant falsely represented the character, amount, or legal status of Plaintiffs' debt and attempted to collect an amount from Plaintiffs that is not permitted by law. (15 U.S.C. §§ 1692e(2)(A), 1692e(10), 1692f, 1692f(1)).

13. Defendant's actions constitute conduct highly offensive to a reasonable person, and as a result of Defendant's behavior Plaintiffs suffered and continues to suffer injury to Plaintiffs' feelings, personal humiliation, embarrassment, mental anguish and/or emotional distress.

**Count I**  
**Joe Frank-Haviland v. Focus Receivables Management, LLC**

14. Plaintiff repeats and re-alleges each and every allegation contained above.

15. Defendant violated the FDCPA as detailed above.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the FDCPA;
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,

in the amount of \$1,000.00;

- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;
- e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;
- f) Awarding such other and further relief as the Court may deem just and proper.

### **Count II**

#### **Alicia Frank-Haviland v. Focus Receivables Management, LLC**

16. Plaintiff repeats and re-alleges each and every allegation contained above.

17. Defendant violated the FDCPA as detailed above.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- g) Adjudging that Defendant violated the FDCPA;
- h) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k, in the amount of \$1,000.00;
- i) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- j) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;
- k) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;

- 1) Awarding such other and further relief as the Court may deem just and proper.

**TRIAL BY JURY**

18. Plaintiffs are entitled to and hereby demands a trial by jury.

Respectfully Submitted,

s/Larry Leshin

Larry Leshin

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